

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Samuel Love,**

Plaintiff,

**v.**

**200 Edenvale Avenue Hotel  
Owner LLC**, a Delaware Limited  
Liability Company;  
**200 Edenvale Avenue Hotel  
Operator LLC**, a Delaware Limited  
Liability Company;

Defendants,

**Case No.**

**Complaint For Damages And  
Injunctive Relief For  
Violations Of:** Americans With  
Disabilities Act; Unruh Civil  
Rights Act

Plaintiff Samuel Love complains of 200 Edenvale Avenue Hotel Owner LLC, a Delaware Limited Liability Company; 200 Edenvale Avenue Hotel Operator LLC, a Delaware Limited Liability Company (“Defendants”) and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. He is substantially limited in his ability to walk. He is a paraplegic. He uses a wheelchair for mobility.

1       2. Defendant 200 Edenvale Avenue Hotel Owner LLC, owns the Hayes  
2       Mansion San Jose Hotel, located at 200 Edenvale Ave., San Jose, California,  
3       currently and at all times relevant to this complaint. Defendant 200 Edenvale  
4       Avenue Hotel Operator LLC, operates the Hotel currently and at all times  
5       relevant to this complaint.

6       3. Plaintiff does not know the true names of Defendants, their business  
7       capacities, their ownership connection to the property and business, or their  
8       relative responsibilities in causing the access violations herein complained of,  
9       and alleges a joint venture and common enterprise by all such Defendants.  
10      Plaintiff is informed and believes that each of the Defendants herein, is  
11      responsible in some capacity for the events herein alleged, or is a necessary  
12      party for obtaining appropriate relief. Plaintiff will seek leave to amend when  
13      the true names, capacities, connections, and responsibilities of other  
14      Defendants are ascertained.

15  
16      **JURISDICTION:**

17      4. The Court has subject matter jurisdiction over the action pursuant to 28  
18      U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
19      Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

20      5. Pursuant to supplemental jurisdiction, an attendant and related cause  
21      of action, arising from the same nucleus of operative facts and arising out of  
22      the same transactions, is also brought under California's Unruh Civil Rights  
23      Act, which act expressly incorporates the Americans with Disabilities Act.

24      6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
25      founded on the fact that the real property which is the subject of this action is  
26      located in this district and that Plaintiff's cause of action arose in this district.

**PRELIMINARY STATEMENT**

7. This is a lawsuit challenging the reservation policies and practices of a place of lodging. Plaintiff does not know if any physical or architectural barriers exist at the hotel and, therefore, is not claiming that the hotel has violated any construction-related accessibility standard. Instead, this is about the lack of information provided on the hotel's reservation website that would permit plaintiff to determine if there are rooms that would work for him.

8. After decades of research and findings, Congress found that there was a "serious and pervasive social problem" in America: the "discriminatory effects" of communication barriers to persons with disability. The data was clear and embarrassing. Persons with disabilities were unable to "fully participate in all aspects of society," occupying "an inferior status in our society," often for no other reason than businesses, including hotels and motels, failed to provide information to disabled travelers. Thus, Congress decided "to invoke the sweep of congressional authority" and issue a "national mandate for the elimination of discrimination against individuals with disabilities," and to finally ensure that persons with disabilities have "equality of opportunity, full participation, independent living" and self-sufficiency.

9. As part of that effort, Congress passed detailed and comprehensive regulations about the design of hotels and motels. But, as importantly, Congress recognized that the physical accessibility of a hotel or motel means little if the 61 million adults living in America with disabilities are unable to determine which hotels/motels are accessible and to reserve them. Thus, there is a legal mandate to provide a certain level of information to disabled travelers.

10. But despite the rules and regulations regarding reservation procedures, a 2019 industry article noted that: "the hospitality sector has largely overlooked the importance of promoting accessible features to travelers."

1 11. These issues are of paramount important. Persons with severe  
2 disabilities have modified their own residences to accommodate their unique  
3 needs and to ameliorate their physical limitations. But persons with disabilities  
4 are never more vulnerable than when leaving their own residences and having  
5 to travel and stay at unknown places of lodging. They must be able to ascertain  
6 whether those places work for them.

7  
8 **FACTUAL ALLEGATIONS:**

9 12. Plaintiff planned on making a trip in March of 2021 to the San Jose,  
10 California, area.

11 13. He chose the Hayes Mansion San Jose Hotel located at 200 Edenvale  
12 Ave., San Jose, California because this hotel was at a desirable price and  
13 location.

14 14. Plaintiff needs an accessible guestroom. He needs clearance around  
15 beds, he needs accessible restroom facilities including accessible sinks,  
16 accessible tubs or showers and accessible toilets. He needs sufficient  
17 maneuvering clearance in and around the guestroom. He needs accessories to  
18 be located within an accessible reach range. In short, he benefits from and  
19 needs compliant accessible guestroom features.

20 15. Plaintiff went to the Hayes Mansion San Jose Hotel reservation website  
21 at <https://www.hilton/en/hotels/sjchmqq-hayes-mansion-san-jose> seeking to  
22 book an accessible room on October 21, 2020.

23 16. Plaintiff found that there was little information about the accessibility  
24 of the rooms. For example, under the “Accessible Amenities” tab, it mentions  
25 features such as: “Hotel complies with ADA Guidelines”, “Accessible  
26 elevators”, “Level or ramp entrance to into the building”, “Accessible hotel  
27 restaurant”, “Accessible parking”, “Accessible public entrance”, and  
28 “Accessible guest rooms with mobility features with entry or passage doors

that provide 32” of clear width”. The information provided is vague and conclusory. Likewise, Under the “1 King Bed Mobil Access W/3x3 Transfer Shower” room, it merely mentions: “Mobil Access W/3X3 Transfer shower”. The “1 QN Bed Mob/Hr access W/3X3 Transfer Shower” room mentions: “Mob/HR Access W/3X3 Transfer Shower”. These vague and conclusory statements offer little detail. For example, there is no specific information on whether the sink and toilet are accessible, if the table/desk is accessible, or if the room has compliant clear floor space in the room

17. The defendant’s reservation system failed to identify and describe the accessible features in the guestroom chosen by the plaintiff in enough detail to reasonably permit him to assess independently whether the particular guestroom met his accessibility needs. The photos accompany those rooms give limited information regarding the accessibility features in the room.

18. This lack of information created difficulty for the plaintiff and the idea of trying to book this room -- essentially ignorant about its accessibility -- caused discomfort for the Plaintiff.

19. Plaintiff would like to patronize this hotel but is deterred from doing so because of the lack of detailed information through the hotel’s reservation system. Plaintiff not only travels frequently but is always on the lookout for businesses that violate the law and discriminate against him and other persons with disabilities, intending to have them comply with the law and pay statutory penalties.

## **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**

**WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all Defendants.) (42 U.S.C. section 12101, et seq.)

20. Plaintiff re-pleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this

1 complaint.

2 21. Under the ADA, it is an act of discrimination to fail to make reasonable  
3 modifications in policies, practices, or procedures when such modifications  
4 are necessary to afford goods, services, facilities, privileges advantages or  
5 accommodations to person with disabilities unless the entity can demonstrate  
6 that taking such steps would fundamentally alter the nature of the those goods,  
7 services, facilities, privileges advantages or accommodations. See 42 U.S.C. §  
8 12182(B)(2)(A)(ii).

9 22. Specifically, with respect to reservations by places of lodging, a  
10 defendant must ensure that its reservation system, including reservations  
11 made by “any means,” including by third parties, shall:

- 12 a. Ensure that individuals with disabilities can make  
13 reservations for accessible guest rooms during the same  
14 hours and in the same manner as individuals who do not  
15 need accessible rooms;
- 16 b. Identify and describe accessible features in the hotels and  
17 guest rooms offered through its reservations service in  
18 enough detail to reasonably permit individuals with  
19 disabilities to assess independently whether a given hotel  
20 or guest room meets his or her accessibility needs; and
- 21 c. Reserve, upon request, accessible guest rooms or specific  
22 types of guest rooms and ensure that the guest rooms  
23 requested are blocked and removed from all reservations  
24 systems.

25 *See* 28 C.F.R. § 36.302(e).

26 23. Here, the defendant failed to modify its reservation policies and  
27 procedures to ensure that it identified and described accessible features in the  
28 hotels and guest rooms in enough detail to reasonably permit individuals with

disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs and failed to ensure that individuals with disabilities can make reservations for accessible guest rooms during the same hours and in the same manner as individuals who do not need accessible rooms.

**II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ. Code § 51-53.)

24. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia, that persons with disabilities are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all business establishment of every kind whatsoever within the jurisdiction of the State of California. Cal. Civ. Code § 51(b).

25. The Unruh Act provides that a violation of the ADA is a violation of the Unruh Act. Cal. Civ. Code, § 51(f).

26. Defendants’ acts and omissions, as herein alleged, have violated the Unruh Act by, inter alia, failing to comply with the ADA with respect to its reservation policies and practices.

27. Because the violation of the Unruh Civil Rights Act resulted in difficulty and discomfort for the plaintiff, the defendants are also each responsible for statutory damages, i.e., a civil penalty. *See* Civ. Code § 52(a).

**PRAYER:**

Wherefore, Plaintiff prays that this Court award damages and provide relief as follows:

1 1. For injunctive relief, compelling Defendants to comply with the  
2 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
3 plaintiff is not invoking section 55 of the California Civil Code and is not  
4 seeking injunctive relief under the Disabled Persons Act at all.

5 2. Damages under the Unruh Civil Rights Act, which provides for actual  
6 damages and a statutory minimum of \$4,000 for each offense.

7 3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
8 to 42 U.S.C. § 12205; and Cal. Civ. Code § 52(a).

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10  
11 Dated: November 2, 2020

CENTER FOR DISABILITY ACCESS

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By: \_\_\_\_\_  
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Attorneys for Plaintiff